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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,874	08/04/2003	Brian G. Johnson	ITO.0047US (P16202)	5272
7590	08/15/2005			
Timothy N. Trop TROP, PRUNER & HU, P.C. STE 100 8554 KATY FWY HOUSTON, TX 77024-1841			EXAMINER DICKEY, THOMAS L	
			ART UNIT 2826	PAPER NUMBER

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,874

Applicant(s)

JOHNSON, BRIAN G.

Examiner

Thomas L. Dickey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-16, 18-24 and 26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 12-16, 18-24 and 26 is/are allowed.
6) ☒ Claim(s) 1 and 3-6 is/are rejected.
7) ☒ Claim(s) 2, 7, 10 and 11 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

1. The indicated allowability of claim 1 (subject matter appearing in former claim 9) is withdrawn in view of the newly discovered reference(s) to Lowrey et al. 2004/0245603. Rejections based on the newly cited reference(s) follow. The finality of the last action is withdrawn.

The amendment filed 07/15/2005 has been entered.

Claim Objections

2. Claim 10 is objected to because of the following informalities:

On its face claim 10 depends from cancelled claim 9. Claim 10 is therefore facially indefinite.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an

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application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by LOWREY et al. (2004/0245603).

Lowrey et al. discloses a method comprising the steps of forming a substantially planar surface 106; forming a phase change material 250 between a pair 130A and 130B of horizontally spaced electrodes formed on said substantially planar surface 106, forming two (figure 2 shows three pairs) pairs 130A and 130B of said horizontally spaced electrodes for two spaced cells at the same time, and depositing a material 140 to form said horizontally spaced electrodes 130A and 130B in a trench 170; forming a conductive line 110 in a substrate 102 and forming said material 140 and said horizontally spaced electrodes 130A and 130B over said substrate 102; forming a (three are shown) selection device (MOSFET 114) in said substrate 102; and forming an electrical connection from said substrate 102 to a second electrode 270 by the step of electrically coupling said second electrode 270 to one of said horizontally displaced electrodes 130A and 130B. Note figures 2, 5A-O, and 6, and paragraphs 0039-0049 and 0052-0065 of Lowrey et al.

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Allowable Subject Matter

4. Claims 12-16, 18-24, and 26 are allowed over the references of record for the reasons set forth in applicant's paper dated 03/03/2005.

5. Claims 2,7,10, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas L Dickey whose telephone number is 571-272-1913. The examiner can normally be reached on Monday-Thursday 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thomas L. Dickey', is positioned above the printed name.

Thomas L. Dickey
Patent Examiner
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